

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

DONALD KAPLAN, DPM,
Plaintiff,

v.

STANDARD INSURANCE
COMPANY,

Defendant.

Case No. 19-cv-21906-CCC-ESK

OPINION AND ORDER

KIEL, UNITED STATES MAGISTRATE JUDGE

THIS MATTER having been opened to the Court on defendant's motion for partial judgment on the pleadings (Motion) (ECF No. 8); and plaintiff having opposed the motion and filed a cross-motion for leave to amend (Cross-Motion) (ECF No. 8); and the Court having held an initial scheduling conference on May 11, 2020; and finding:

1. Plaintiff claims he was denied coverage under certain insurance policies issued to him by defendant. (ECF No. 1.)
2. Defendant asserts it is entitled to dismissal of plaintiff's claim for coverage under two of the insurance policies, bad faith, and attorney's fees. (ECF No. 8-1.) Defendant filed the Motion on March 17, 2020. (*Id.*)

3. In the Cross-Motion, plaintiff seeking to file an amended complaint to address the issues raised in the Motion. (ECF No. 14 pp. 32-34.) Plaintiff filed the Cross-Motion on April 17, 2020. (ECF. No. 14.)

4. Defendant's opposition to the Cross-Motion is due on or before June 11, 2020 under the Court's Standing Order 2020-09.

5. Under Rule 15(a)(1)(B), plaintiff could have filed an amended complaint, as a matter of right, within 21 days after service of the Motion. Accordingly, plaintiff could have filed the proposed amended complaint on or before April 7, 2020.

6. On March 24, 2020, Chief District Judge Freda L. Wolfson entered Standing Order 2020-04 (Order). Under the Order, “all filing and discovery deadlines in civil matters that [] fall between March 25, 2020 and April 30, 2020, [were] **EXTENDED** by forty-five (45) days ...”

7. With the extension provided in the Order, plaintiff could have filed his proposed amended complaint, as a matter or right, by May 22, 2020. However, “out of an abundance of caution,” plaintiff filed the Cross-Motion, which seeks leave to file an amended complaint. (ECF No. 14 p. 32.)

8. Motions to amend pleading should be liberally granted. *Long v. Wilson*, 393 F.3d 390, 400 (3d Cir. 2004) Additionally, there is no indication plaintiff acted in bad faith or unduly delayed in seeking leave to file an amended complaint. See *Foman v. Davis*, 371 U.S. 178, 182 (1962). In fact, plaintiff sought leave within the time he was permitted to file an amended complaint, as a matter or right, under Standing Order 2020-04.

9. Additionally, the Motion will be moot upon the filing of the amended complaint.

Accordingly,

IT IS on this **12th** day of **May 2020** **ORDERED** that:

1. The Cross-Motion is **GRANTED**. Plaintiff is granted leave to file his proposed amended complaint on or before **May 22, 2020**. Defendant may answer or otherwise move as to the Amended Complaint on or before **June 12, 2020**,

2. The Clerk of the Court is directed to terminate the motions at **ECF Nos. 8 and 14**.

/s/ Edward S. Kiel
Edward S. Kiel
UNITED STATES MAGISTRATE JUDGE